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April 20, 2001

APR 20 2001

U. S. Environmental Protection Agency
Deena Sheppard-Johnson, SR-6J
Remedial Enforcement Support Section
77 West Jackson Blvd.
Chicago, IL 60604

Re: *Chemical Recovery Systems Site (Elyria, Ohio)*
Response to CERCLA Section 104(e) Request

Dear Ms. Sheppard-Johnson:

A letter dated March 2, 2001 was received from James N. Mayka, Chief, Remedial Response Branch No. 2 of the United States Environmental Protection Agency ("USEPA") Region 5, addressed to Allied Waste Industries, Inc. A/K/A Browning Ferris Industries, 15880 North Greenway-Hayden Loop, Scottsdale, AZ 85260. The letter requested information regarding the Chemical Recovery Systems (CRS) site pursuant to CERCLA § 104(e).

For your information, the correct corporate entity is Browning-Ferris Industries Chemical Services, Inc. ("BFICSI"), and this response is being made on behalf of BFICSI. BFICSI is a wholly-owned subsidiary of Browning-Ferris Industries, Inc. ("BFI"). BFI is a wholly-owned subsidiary of Allied Waste Industries, Inc.

A diligent search for documents has been undertaken and interviews conducted with individuals who may have knowledge of the activities of BFICSI during the relevant time period. The information provided herein is as complete and accurate as possible, given the passage of time and the departure of employees with personal knowledge of the matters addressed in the Information Request.

Responses to each Information Request are set forth below.

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GENERAL OBJECTIONS

1. BFICSI objects to Instruction No. 3 for the reason that CERCLA does not mandate a response identifying "all contributing sources of information", nor is the meaning of this phrase clear to BFICSI. In addition, BFICSI objects to producing any materials which are subject to the attorney-client privilege or other privilege, which constitute protected attorney-work product, or which otherwise are not discoverable.

2. BFICSI objects to Instruction No. 8 for the reason that it is unduly burdensome and overbroad by seeking to require responses based upon "all information and documents" in the "possession or control" of "former employees, agents, contractors, or attorneys." BFICSI further objects to Instruction No. 8 for the reason that § 104(e) does not require BFICSI to furnish USEPA with information outside of its control, as would be the case with former employees and contractors.

3. BFICSI objects to Instruction No. 9 for the reason that CERCLA does not require BFICSI to certify, verify or notarize the answers to the Information Request. Without waiving its objection, BFICSI states that it has searched for and reviewed the relevant records and has performed a reasonable inquiry of employees' knowledge of the matters raised in the Information Request.

4. BFICSI objects to any attempt by USEPA to create a continuing duty under Instruction No. 6 for BFICSI to supplement its response, on the grounds that such instruction exceeds the statutory authority of CERCLA. Without waiving its objection, however, if BFICSI becomes aware of any information that demonstrates its response was incorrect when made, though believed to be correct when made, or is no longer true, then BFICSI voluntarily will supplement its response.

5. BFICSI objects to Instruction No. 10 for the reason that "you" and "Respondent" are defined to include contractors, trustees, predecessors, successors and agents, which is beyond the scope of inquiry authorized by CERCLA. Section 104(e) of CERCLA does not require BFICSI to furnish USEPA with information outside of its control.

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INFORMATION REQUESTS

1. Identify all persons consulted in the preparation of the answers to these questions.

ANSWER: Jonathan R. Haden
Lathrop & Gage L.C.
2345 Grand Blvd., Suite 2800
Kansas City, MO 64108

Deenen Brady
Environmental Remediation and
Closure-Activities
Browning-Ferris Industries, Inc.
757 North Eldridge at Memorial Dr.
Houston, TX 77079

Dave Kidder
General Manager
BFI of Ohio, Inc.
40195 Butternut Ridge Road
Elyria, OH 44035-4011

Diane Coultrip
Office Manager
BFI of Ohio, Inc.
40195 Butternut Ridge Road
Elyria, OH 44035-4011

Joseph Smith
Risk International
4199 Kinross Lake Parkway
Suite 220
Richfield, OH 44286

Steve Doss
Allied Waste Industries, Inc
15880 North Greenway-Hayden Loop
Suite 100
Scottsdale, AZ 85260

Jim Stout
Browning-Ferris Industries, Inc.
757 North Eldridge at Memorial Drive
Houston, TX 77079

Eileen Schuler
Browning-Ferris Industries, Inc.
757 North Eldridge Memorial Dr.
Houston, TX 77079

2. Identify all documents consulted, examined, or referred to in the preparation of the answers to these questions and provide copies of all such documents.

ANSWER:

1. Inventory List for CRS Site produced by USEPA Region 5
2. By-Laws and Articles of Incorporation of BFICSI
3. Documents relating to the sale of assets by BFICSI to Protek, Inc. on 10/2/84
4. BFI's consolidated annual reports, 1995-1999
5. BFICSI insurance policies
6. Corporate documents for CESCO, Inc. and Chemical Cleaning & Equipment Services, Inc.
7. Employee lists of BFI and BFICSI.
8. Documents and web sites maintained and/or generated by USEPA, Ohio EPA, Ohio Secretary of State, West Virginia Secretary of State, and West Virginia Department of Environmental Protection.

3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons.

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ANSWER:

The following persons were employed by BFICSI at its Charleston, West Virginia facility in October 1984, at the time BFICSI sold substantially all of the assets of that facility to Protek, Inc. None is a current employee of BFICSI or any affiliated company, and BFICSI has no known address or other identifying information.

Jerry Sullivan - District Manager
Gene D. Lamb - Assistant District Manager
Gary K. Young - Service Manager
Maudie Ewing - Secretary
Ann Cowley - Secretary
Debbie Weipperte - Secretary

4. List the EPA Identification Numbers of the Respondent.

ANSWER:

Unknown for the Charleston, West Virginia facility for the years 1972-1984.

5. Identify the acts or omissions of any persons, other than your employees, contractors, or agents, that may have caused the release or threat of release of hazardous substances, pollutants, or contaminants and damages resulting therefrom at the CRS Site.

ANSWER:

Without waiving any rights or defenses, BFICSI asserts that it does not have information responsive to this request.

6. Identify all persons including Respondent's employees, who have knowledge or information about the generation, use, treatment, storage, disposal, or other handling of material at or transportation of materials to the Site (operating as Obitts Chemical Company or Chemical Recovery Systems, Inc., at 142 Locust Street, Elyria, Ohio).

ANSWER:

Other than the former employees of BFICSI identified in response to Request No. 3 above, BFICSI has no knowledge or information responsive to this Request.

7. Describe all arrangements that Respondent may have or may have had with each of the following companies and persons:

- a) **Obitts Chemical Company**
- b) **Russell Obitts**
- c) **Chemical Recovery Systems, Inc.**
- d) **Peter Shagena**
- e) **James Freeman**
- f) **James "Jim" Jackson**
- g) **Donald Matthews**
- h) **Bob Spears**
- i) **Bill Bromley**
- J) **Carol Oliver**
- k) **Nolwood Chemical Company, Inc.**
- l) **Art McWood**
- m) **Chuck Nolton**
- n) **Michigan Recovery System, Inc.**
- o) **Chemical Recovery Systems of Michigan**

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ANSWER:

BFICSI's diligent investigation and document search pursuant to this Request has produced no information regarding BFICSI's use of the site, or arrangements with persons identified in this Request. USEPA has provided to BFICSI an "inventory list" which purports to describe a number of generators/transporters of certain substances disposed of at the site from 1974 through 1980. This list identifies the following contributions by BFICSI or an apparently-related entity:

Company	Date¹	Material	Amount
Browning-Ferris	4/22/77	1, 111 ²	7 drums
Browning-Ferris	6/21/77	dirty thinner	29 drums
BFI-Charleston	9/22/79	toluene	3,800 drums
BFI	10/5/79	heptane/toluene	2,000 gallons
Browning-Ferris	12/1/79	heptane	3,200 gallons
BFI	3/10/80	waste heptane	3,177 gallons

¹The year of shipment is not clear from the inventory list.

²This likely refers to 1, 111 trichloroethane (TCE).

"BFI-Charleston" may refer to the industrial cleaning facility operated by BFICSI at 2933 Sissonville Drive, Charleston, West Virginia from July 1972 through October 1984. This facility provided hydroblasting, chemical cleaning and vacuum truck services. The references in the "inventory list" to "BFI" or "Browning-Ferris" may also be to BFICSI's Charleston facility. To the best of BFICSI's information and belief, no other BFI-affiliated facilities in reasonable proximity to the site transported or generated the types of materials identified on this list.

BFI acquired a Texas corporation known as CESCO, Inc. in 1972, at which time CESCO, Inc. was operating the Sissonville Drive facility in Charleston. CESCO, Inc. was merged into BFICSI on September 30, 1974. Upon information and belief, CESCO, Inc. was originally incorporated in Texas as Chemical Cleaning & Equipment Service, Inc. on April 28, 1960 and changed its name to CESCO, Inc. in April 1967.

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BFICSI sold all of the assets of its Charleston facility to Protek, Inc., a West Virginia corporation, in October 1984. BFICSI assigned the lease for the Sissonville Drive facility to Protek, Inc., and Protek, Inc. continued to operate that facility for some indeterminate period of time thereafter.

8. Set forth the dates during which the Respondent engaged in any of the following activities:

a) **Generation of hazardous materials which were sent to the CRS Site;**

b) **Transportation of any material to the CRS Site.**

ANSWER:

See response to Request No. 7 above.

9. Identify all persons, including yourself, who may have arranged for disposal or treatment, or arranged for transportation for disposal or treatment, of materials, including, but not limited to, hazardous substances, at the CRS Site. In addition, identify the following:

a) **The persons with whom you or such other persons made such arrangements;**

b) **Every date on which such arrangements took place;**

c) **For each transaction, the nature of the material or hazardous substance, including the chemical content, characteristics, physical state (e.g., solid, liquid), and the process for which the substance was used or the process which generated the substance;**

d) **The owner of the materials or hazardous substances so accepted or transported;**

e) **The quantity of the materials or hazardous substances involved (weight or volume) in each transaction and the total quantity for all transactions;**

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- f) All tests, analyses, and analytical results concerning the materials;**
- g) The person(s) who selected the CRS Site as the place to which the materials or hazardous substances were to be transported;**
- h) The amount paid in connection with each transaction, the method of payment, and the identity of the person from whom payment was received;**
- i) Where the person identified in g., above, intended to have such hazardous substances or materials transported and all evidence of this intent;**
- j) Whether the materials or hazardous substances involved in each transaction were transshipped through, or were stored or held at, any intermediate site prior to final treatment or disposal;**
- k) What was actually done to the materials or hazardous substances once they were brought to the CRS Site;**
- l) The final disposition of each of the materials or hazardous substances involved in such transactions;**
- m) The measures taken by you to determine the actual methods, means, and site of treatment or disposal of the material and hazardous substance involved in each transaction;**
- n) The type and number of containers in which the materials or hazardous substances were contained when they were accepted for transport, and subsequently until they were deposited at the CRS Site, and all markings on such containers;**
- o) The price paid for (i) transport, (ii) disposal, or (iii) both of each material and hazardous substance;**
- p) All documents containing information responsive to a - o above, or in lieu of identification of all relevant documents, provide copies of all such documents;**

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q) All persons with knowledge, information, documents responsive to a - p above.

ANSWER:

See Response to Request Nos. 3 and 7 above.

10. Identify all liability insurance policies held by Respondent from 1960 to the present. In identifying such policies, state the name and address of each insurer and of the insured, the amount of coverage under each policy, the commencement and expiration dates for each policy, whether or not the policy contains a "pollution exclusion" clause, and whether the policy covers or excludes sudden, nonsudden, or both types of accidents. In lieu of providing this information, you may submit complete copies of all relevant insurance policies.

ANSWER:

With this response BFICSI is submitting as Attachment A copies of all relevant insurance policies of which it is aware.

11. Provide copies of all income tax returns, including all supporting schedules, sent to the Federal Internal Revenue Service in the last five years.

ANSWER:

BFICSI objects to this request on the grounds that it seeks information which is merely cumulative. While USEPA is authorized under § 104(e) to request information relating to BFICSI's ability "to pay for or to perform a cleanup," BFICSI is providing, in response to Request No. 12 below, adequate information for USEPA to make an ability-to-pay determination.

12. If Respondent is a Corporation, respond to the following requests:

a) Provide a copy of the Articles of Incorporation and By-Laws of the Respondent.

b) Provide Respondent's financial statements for the past five fiscal years, including, but not limited to, those filed with the Internal Revenue Service and Securities and Exchange Commission.

c) Identify all of Respondent's current assets and liabilities and the person(s) who currently own(s) or is (are) responsible for such assets and liabilities.

d) Identify the Parent Corporation and all Subsidiaries of the Respondent.

ANSWER:

a) See Attachment B.

b) See the consolidated financial statements of Allied Waste Industries, Inc. for 1999 and Browning-Ferris Industries, Inc. for 1993 through 1998, in the form of Annual Reports, Attachment C.

c) See Attachment D, the 1999 SEC Form 10-K filed by Allied Waste Industries, Inc.

d) See Attachment E.

13. If Respondent is a Partnership, respond to the following requests:

a) Provide copies of the Partnership Agreement.

b) Provide Respondent's financial statements for the past five fiscal years, including, but not limited to, those filed with the Internal Revenue Service and Securities and Exchange Commission.

c) Identify all of Respondent's current assets and liabilities and the person(s) who currently own(s) or is (are) responsible for such assets and liabilities.

d) Identify all subsidiaries of the Respondent.

ANSWER:

Not applicable. BFICSI is not a partnership.

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14. If Respondent is a Trust, respond to the following requests:

a) **Provide all relevant agreements and documents to support this claim.**

b) **Provide Respondent's financial statements for the past five fiscal years, including, but not limited to, those filed with the Internal Revenue Service and Securities and Exchange Commission.**

c) **Identify all of Respondent's current assets and liabilities and the person(s) who currently own(s) or is (are) responsible for such assets and liabilities.**

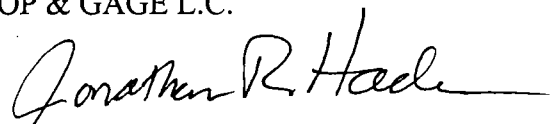
ANSWER:

Not applicable. BFICSI is not a trust.

Please direct all questions and future correspondence regarding this response and the CRS Site the undersigned, BFICSI's counsel, Jonathan R. Haden, whose address is identified on this letterhead and in response to Request No. 1.

LATHROP & GAGE L.C.

By:


Jonathan R. Haden

Enclosures

cc: Steve Doss
Deneen Brady

BROWNING FERRIS INDUSTRIES

**REMAINDER OF 104(E)
ATTACHMENTS
LOCATED IN
BOX D**

